

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	File No. EB-08-TC-2396
Startec Global Operating Company)	NAL/Acct. No. 200932170012
)	FRN: 0007715915
)	

ORDER

Adopted: December 24, 2008

Released: December 24, 2008

By the Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau of the Federal Communications Commission (“Bureau”) and Startec Global Operating Company (“Startec”). The Consent Decree terminates an investigation¹ by the Bureau against Startec for possible violations of section 1.717 of the Commission’s rules regarding Startec’s apparent failure to timely respond to informal consumer complaints.

2. The Bureau and Startec have negotiated the terms of the Consent Decree that resolve this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree, which terminates the investigation.

4. Accordingly, **IT IS ORDERED** that, pursuant to sections 4(i) and 503(b) of the Communications Act of 1934, as amended,² and sections 0.111 and 0.311 of the Commission’s Rules,³ the Consent Decree attached to this Order **IS ADOPTED**.

¹ Letter from Leon Jackler, Special Counsel, Telecommunications Consumers Division, Enforcement Bureau, to Mr. Robert Felgar, Counsel for Startec Global Communications (April 16, 2008).

² 47 U.S.C. § 154(i), 503(b).

³ 47 C.F.R. §§ 0.111, 0.311.

5. **IT IS FURTHER ORDERED** that the above-captioned proceeding is **TERMINATED**.

FEDERAL COMMUNICATIONS COMMISSION

Kris Anne Monteith
Chief, Enforcement Bureau

**Before the
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In the Matter of)	
)	File No. EB-08-TC-2396
Startec Global Operating Company)	NAL/Acct. No. 200932170012
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CONSENT DECREE

The Enforcement Bureau (“Bureau”) and Startec Global Operating Company (“Startec” or the “Company”), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation against Startec for possible violations of section 1.717 of the Commission’s rules regarding Startec’s apparent failure to timely respond to informal consumer complaints.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Startec” means Americatel Corporation and its direct and indirect subsidiaries, including Startec Global Operating Company, as well as any successors in interest, under the jurisdiction of the Federal Communications Commission.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Compliance Plan” means the program described in this Consent Decree at paragraph 8.
 - (f) “Effective Date” means the date on which the Commission releases the Adopting Order.
 - (g) “Investigation” means the investigation commenced by the Bureau’s April 16, 2008 Letter of Inquiry (“LOI”)¹ regarding whether Startec violated section 1.717

¹ Letter from Leon Jackler, Special Counsel, Telecommunications Consumers Division, Enforcement Bureau (April 16, 2008) (“April 16, 2008 LOI”).

of the Commission's Rules² by failing to timely file responses to informal complaints served upon Startec by the Consumer and Government Affairs Bureau.

- (h) "Order" or "Adopting Order" means an Order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (i) "Parties" means Startec and the Bureau.
- (j) "Rules" means the Commission's regulations found in Title 47 of the Federal Regulations.

II. BACKGROUND

2. Pursuant to section 1.717 of the Commission's Rules, "the Commission will forward informal complaints to the appropriate carrier for investigation. The carrier will, within such time as may be prescribed, advise the Commission in writing, with a copy to the complainant, of its satisfaction of the complaint or of its refusal or inability to do so."³

3. On April 16, 2008, the Bureau issued a letter of inquiry (LOI) to Startec.⁴ The March 19, 2008 LOI directed Startec, among other things, to submit a sworn written response to a series of questions relating to the alleged failures of Startec to respond to informal complaints. Startec responded to the LOI on May 9, 2008.⁵

III. TERMS OF AGREEMENT

4. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order without change, addition, modification, or deletion.

5. **Jurisdiction.** Startec agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

6. **Effective Date: Violations.** The Parties agree that this Consent Decree shall become effective on the date on which the FCC releases the Adopting Order. Upon release, the Adopting Order and this Consent Decree shall have the same force and effect as any other Order of the Bureau. Any violation of the Adopting Order or of the terms of this Consent

² 47 C.F.R. 1.717

³ 47 C.F.R. 1.717.

⁴ See April 16, 2008 LOI.

⁵ See May 9, 2008 LOI response.

Decree shall constitute a separate violation of a Bureau Order, entitling the Bureau to exercise any rights and remedies attendant to the enforcement of a Commission Order.

7. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate its investigation. In consideration for the termination of said investigation, Startec agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau, will not use the facts developed in this investigation through the Effective Date of the Consent Decree, or the existence of this Consent Decree, to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against Startec concerning Startec's alleged failure to timely respond as required by Section 1.717 of the Commission's rules to the informal complaints that were the subject of the investigation. The Bureau also agrees that it will not use the facts developed in this investigation to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Startec concerning any alleged failure by Startec to timely respond to any informal complaint as required by Section 1.717 of the Commission's rules served on Startec by the Commission prior to the Effective Date of this Consent Decree. The Bureau also agrees that it will not use the facts developed in this investigation through the Effective Date of this Consent Decree, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Startec with respect to Startec's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier.

8. **Compliance Plan.** For purposes of settling the matters set forth herein, Startec agrees to create within 30 days a Compliance Plan related to future compliance with Section 1.717 of the Commission's Rules and related Commission Orders. The Plan will include, at a minimum, the following components:

- a. Designate an employee with the title of Regulatory Compliance Manager ("Manager") to oversee Startec's responses to all informal complaints. The Manager will be responsible for ensuring that informal complaint responses are thorough and timely filed with the Bureau. To that end, the Manager will review the Bureau's Consumer Complaint Management System ("CCMS") daily .
- b. The Manager will maintain a "Tracking Spreadsheet" to track all informal complaints received. In particular, when an informal complaint is posted on the CCMS, the Manager will enter the date of the informal complaint as well as the response due date. The Manager will receive reminders fourteen days, five days, two days prior to the date that a response is due, as well as on the date that a response is due.
- c. At least once monthly, Startec's General Counsel will review the Tracking Spreadsheet to ensure that all responses have been timely filed. The General Counsel will further review the CCMS to ensure that the Tracking Spreadsheet is complete and accurate.

- d. Startec shall report any non-compliance with the Compliance Plan to the Bureau within thirty (30) days after the discovery of non-compliance. In such cases, Startec shall simultaneously respond to the underlying complaint or provide an explanation of its failure to do so. Startec shall certify at the end of the one (1) year term that it is compliance with the terms of the Compliance Plan. Such certification must be mailed within fifteen (15) days after the two-year anniversary of the Effective Date of this Consent Decree to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554.

9. **Termination Date.** Unless stated otherwise, the requirements of this Consent Decree will expire twenty-four (24) months after the Effective Date.

10. **Section 208 Complaints: Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against Startec or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Startec of the Act, the Rules, or the Order.

11. **Voluntary Contribution.** Startec agrees that it will make a voluntary contribution to the United States Treasury in the amount of seven thousand dollars (\$7,000). The payment will be made within thirty (30) calendar days after the Effective Date of the Adopting Order. The payment must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Account Number and FRN Number referenced in the caption to the Adopting Order. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000. Payment by overnight mail may be sent to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101. Payment[s] by wire transfer may be made to ABA Number 021030004, receiving bank TREAS/NYC, and account number 27000001. For payment by credit card, an FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the NAL/Account number in block number 23A (call sign/other ID), and enter the letters “FORF” in block number 24A (payment type code). Startec will also send electronic notification on the date said payment is made to leon.jackler@fcc.gov.

12. **Waivers.** Startec waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Commission issues an Order adopting the Consent Decree without change, addition, modification, or deletion. Startec shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of

the Adopting Order, neither Startec nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Startec shall waive any statutory right to a trial *de novo*. Startec hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

13. **Severability.** The Parties agree that if any of the provisions of the Adopting Order or the Consent Decree shall be invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

14. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent rule or Order adopted by the Commission (except an Order specifically intended to revise the terms of this Consent Decree to which Startec does not expressly consent) that provision will be superseded by such Commission rule or Order.

15. **Successors and Assigns.** Startec agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

16. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the requirements of the Act or the Commission's Rules and Orders. The Parties agree that this Consent Decree is for settlement purposes only and that by agreeing to this Consent Decree, Startec does not admit or deny noncompliance, violation or liability for violating the Act, Commission's Rules or Orders in connection with the matters that are the subject of this Consent Decree.

17. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

18. **Paragraph Headings.** The headings of the Paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

19. **Authorized Representative.** Each party represents and warrants to the other that it has full power and authority to enter into this Consent Decree.

20. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be

an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

Kris Anne Monteith
Chief, Enforcement Bureau

Robert Felgar
General Counsel
Startec Global Operating Company

Date

Date